

APPEAL NO. 042092
FILED OCTOBER 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 27, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable neck, left shoulder, and low back injury on _____, and that the claimant had disability beginning May 2, 2004, and continuing through the date of the CCH. The appellant (carrier) appealed, disputing the disability determination. The appeal file does not contain a response from the claimant. The determination that the claimant sustained a compensable neck, left shoulder, and low back injury on _____, was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove that she has had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Although there is conflicting evidence in this case, we conclude that the hearing officer's disability determination on the disputed issue is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **THE CHARTER OAK FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica L. Ruberto
Appeals Judge